

Applicant: Bernalillo County
Zoning, Building, Planning &
Environmental Health Department
111 Union Station St. SE
Albuquerque, NM 87111

Property Owner: Tom A. & Valerie Y.
C De Baca
6551 Edith Blvd. NE
Albuquerque, NM 87107

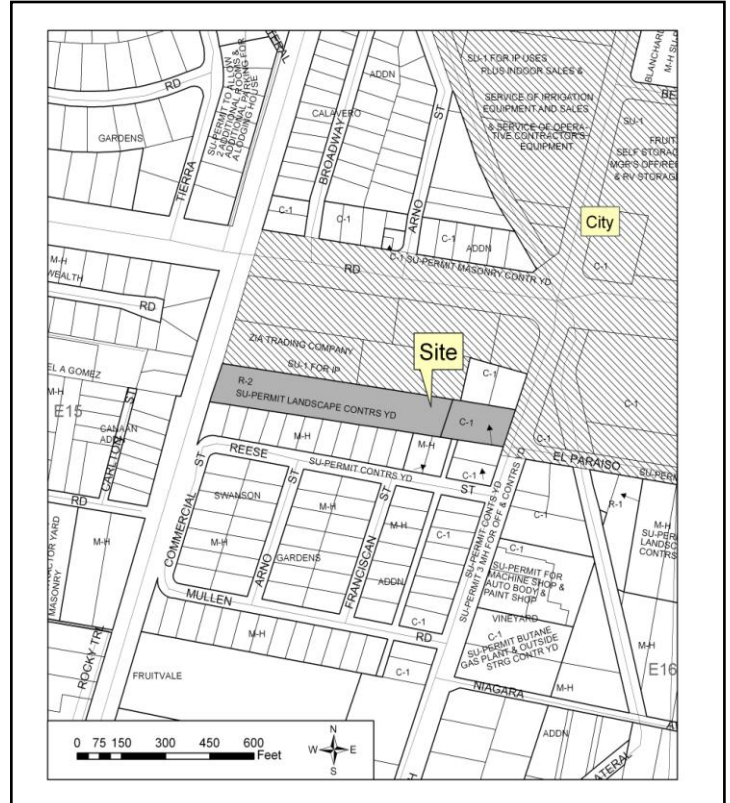
Location: 6535 Edith Blvd. NE

Property Size: 2.94 acres (approximately)

Existing SUP: Special Use Permit for a
Contractor's Yard

Zoning: R-2 & C-1

Recommendation: Cancellation



Summary: The Zoning, Building, Planning & Environmental Health Department proposes cancellation of an existing Special Use Permit for a Contractor's Yard (CSU-83-60). Despite contact from the Zoning Enforcement Office, a mobile home, several inoperative vehicles, various auto parts, and miscellaneous debris continue to be stored on the property contrary to the approved site plan. The landscaping on the property also does not comply with the approved plan. The property owner has neither abated the violations nor made application to amend the SUP to allow for the unpermitted activities.

Staff Contact: Catherine VerEecke, Program Planner

Attachments:

1. Notice of Special Use Permit (2/22/84)
2. Notices of violation (2007)
3. Notice of intent to cancel SUP (December 3, 2009)
4. Zone Atlas page, land use map.
5. Letter from Northeast Valley Neighborhood Association.
6. Approved site plan (3/8/84) (Commissioners only)

CSU-83-60 Zoning, Building, Planning & Environmental Health Department requests cancellation of a Special Use Permit for a Contractor's Yard on Tract 56, MRGCD Map #29, located at 6535 Edith Boulevard NE, zoned R-2 & C-1, and containing 2.94 acres. (E-15)

AREA CHARACTERISTICS AND ZONING HISTORY

Surrounding Zoning & Land Uses

	Zoning	Land use
Site	A-1/Special Use Permit for a Contractor's Yard	Vacant building, mobile home, contractors' yards
North	SU-1-IP (City)	Office complex
South	M-H	Single family residential
East	---- C-1 (City)	Edith Blvd., Sandia School
West	---- M-H	Railroad Single family residential

BACKGROUND

Special Use Permit History & Overview

On February 21, 1984, the Board of County Commissioners authorized an amendment to an existing Special Use Permit for a Contractor's Yard to include the westerly portion of the lot (Tract 56) in the Special Use Permit (Attachment 1). The underlying zoning of the property has been C-1 in the front and R-2 in the rear. The original Special Use Permit on the property was for a contractor's yard for the easterly portion of the property (CZ-80-49). The approved site plan, dated 3/8/84, included outside storage of contractor's equipment and a single family dwelling and garage (Attachment 6—Approved Site Plan). The site plan also included conditions that required a six foot high chain link or cedar fence around the property and landscaping along the north property line. In 1985, another Special Use Permit was granted for the property to allow three mobile homes to serve as offices for individual contractor's yards (CSU-85-15). However, in 1988, the applicant withdrew the request to have the additional mobile homes on the property (related to other zoning violations), and the property reverted to the previous Special Use Permit (CSU-83-60). In 1994, the property owner requested a zone change to C-2 (CZ-94-13), but the request eventually was withdrawn by staff.

Since the time of the approval of the Special Use Permit request, there have been various violations of the zoning ordinance and the Special Use Permit. These have included storage of old vehicles for sale in the front of the property and the placement of the mobile home in the rear of the property. In 2007, a letter was sent from the Zoning Enforcement Office indicating that the property was not in compliance with the approved site plan (Attachment 2—Notices of Violation). No obvious actions were taken by the property owner to address the violations. On December 3, 2009, the Zoning Administrator sent the property owner a letter of intent to cancel the Special Use Permit (Attachment 3—Letter of Intent). No response was received from the property owner, and the violations still were not addressed.

Most recently, a follow-up inspection by staff revealed that the property remains in violation. The mobile home remains in the westerly portion of the property in addition to vehicles (trucks) and debris being stored in the easterly portion of the site near Edith Blvd. Staff also noted that the single family residence on the property is vacant and another unapproved structure has been placed in the westerly portion of the property next to the mobile home. Landscaping (along the north property line) also does not comply with the condition noted on the approved site plan.

Subject Site & Surrounding Properties

The property is located east of Edith Blvd. about 500 feet south of Osuna Rd. The property to the north, which abuts Osuna Rd., has SU-1 (IP) zoning within the City of Albuquerque and now includes an office complex. (Previously the property had C-1 zoning until it was annexed in 2000). The properties to the south of the subject site are within a residential subdivision with M-H zoning. On the east side of Edith Blvd. properties are owned by the Sandia School and are within the City of Albuquerque. Further south on the east side of Edith Blvd. properties have C-1 zoning with Special Use Permits for such uses as warehouse and auto repair.

APPLICABLE REGULATIONS & POLICIES

Comprehensive Zoning Ordinance of Bernalillo County

Section 18. Special Use Permit Regulations.

H. Violation of the approved development plan or any condition imposed by the Board of County Commissioners in approving an application filed under this section shall constitute a violation of this ordinance and shall be subject the permit to cancellation pursuant to this section.

1. Procedures for Cancellation:

(a) The Zoning Administrator or his designee has the duty of routinely inspecting the Special Use Permit to insure compliance with the approved development plan and conditions imposed by the Board of County Commissioners.

(b) If the Zoning Administrator or his designee shall find that any of the conditions of the approved development plan or the conditions imposed by the Board of County Commissioners have not been complied with, they shall notify in writing, the owner, tenant, agent, occupant, or person in charge of the premises, indicating the nature of the violation and ordering its correction within 30 days.

(c) In an event that a violation of the approved development plan or conditions imposed by the Board of County Commissioners continues, the Zoning Administrator or his designee may institute the appropriate action to cancel the Special Use Permit pursuant to this section of proceed against the owner, tenant, agent, occupant, or person in charge of the premises, pursuant to the Penalty section of this Ordinance.

(d) Any violation o the approved development plan or conditions imposed by the Board of County Commissioners that continues for a period of 30 days after notification by certified mail receipt return requested shall subject the Special Use Permit to cancellation pursuant to the process outlined under Section 18.E., Subsections 1, 2, and 3. In the event that the Special Use Permit is cancelled, all references to said Special Use Permit shall be removed from the official zoned maps by the County Planning Department.

2. In the event a use authorized by a Special Use Permit is not established within 12 months of the date of approval or is discontinued for a period of 12 months, the County Planning Department shall send notification by certified mail return receipt requested requiring the property owner, tenant, agent, occupant, or person in charge of the premises to state in writing within 30 days his or her intention to establish or continue said permit. If the property owner, tenant, agent, occupant, or person in charge of the premises does not declare in writing his or her intention to establish or continue said permit, then authorization or approval may be cancelled and relevant documents, if any, shall be removed from the official zone maps by the County Planning Department.

ANALYSIS

This request seeks to cancel a Special Use Permit for a Contractor's Yard on a 2.94 acre property located the south of Osuna Rd. on the west side of Edith Blvd. extending to the railroad tracks. The property, which has an underlying zoning of R-2 and C-1, is located

between a property adjacent to Osuna Rd. with SU-1 (IP) zoning and a residential subdivision to the south. It appears that the original intention behind the zoning of the subject property was to provide a transition between the property to the north (formerly zoned C-1 within unincorporated Bernalillo County) and the residential area to the south. When the Special Use Permit was granted, the use was limited to the applicant's contractor's equipment and storage. However, since the granting of the Special Use Permit, there have been numerous changes and violations on the property that are contrary to the approved site plan and the conditions of approval. The violations include the addition of a mobile home and an unidentified structure, failure to establish landscaping along the north property line, and storage of inoperative vehicles and debris on the site. In addition, the single family dwelling unit on the site is no longer occupied. As Special Use Permits authorize land uses that are not expected or generally allowed to occur within a zone, compliance with any and all limitations is required. The subject property has a number of violations of the Special Use Permit on the property which must be addressed to bring the property into compliance.

The short term solution to this matter may appear to be advisement from the County to the property owner for compliance with the approved site plan and conditions of approval. However, it should be noted that this matter has been turned over from the Zoning Enforcement Office for cancellation because of the limited effort demonstrated since the 1980s to remedy the violations and ensure observance of the applicable standards. Although the Special Use Permit was granted for the life of the use, the uses on the site have expanded beyond the scope of the original Special Use Permit and the site, which abuts an office complex and a residential subdivision, both of which are adversely impacted by the poor condition of the site. In any case, persistent noncompliance on the part of the owner necessitates the recommendation of cancellation from the Planning Department.

The Northeast Valley Neighborhood Association has submitted a letter in support of the cancellation of this Special Use Permit (Attachment 5).

Proposed Findings for Cancellation

1. This is a request for cancellation of a Special Use Permit for a Contractor's Yard on Tract 56, MRGCD Map #29, located at 6535 Edith Boulevard NE, zoned R-2 & C-1, and containing 2.94 acres.
2. This matter is a result of continued violations of the Special Use Permit (CSU-83-60) and the corresponding site development plan approved for the permit, dated March 8, 1984.
3. The property has failed to comply with the approved site development plan in that a mobile home and another unidentified structure are located on the property, and trucks and miscellaneous debris are being stored on the property. The property also lacks sufficient landscaping along the north property line
4. The Bernalillo County Zoning Administrator notified the property owner of noncompliance with the provisions of the Special Use Permit on December 3, 2009, as described in Section 18.H. of the Comprehensive Zoning Ordinance of Bernalillo County.
5. This decision removes the Special Use Permit (CSU-83-60) from the property, and reverts the zoning on the site back to the underlying zoning designation of R-2 (Apartment Zone) and C-1 (Neighborhood Commercial Zone).

RECOMMENDATION:

Cancellation of CSU-83-60.

Catherine VerEecke
Program Planner